

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND

IN RE:
ARLENE P. BALUNSAT A/K/A
A/K/A ARLENE PASCASIO BALUNSAT
BENJAMIN P. BALUNSAT A/K/A
A/K/A BENJAMIN NAVOA BALUNSAT
Debtor(s)

CASE NO.: 09-2-6192-WL

NAVY FEDERAL CREDIT UNION
Movant

CHAPTER 13

vs.
ARLENE P. BALUNSAT A/K/A
A/K/A ARLENE PASCASIO BALUNSAT
BENJAMIN P. BALUNSAT A/K/A
A/K/A BENJAMIN NAVOA BALUNSAT
Respondents

**MOTION TO MODIFY STAY TO PERMIT
FORECLOSURE OF THE DEED OF TRUST**

Now come the Movant by its attorneys Friedman & MacFadyen, P.A., Michael T. Cantrell, Esquire and Diana C. Theologou, Esquire and respectfully represents unto this court:

1. On or about August 31, 2009 the debtors filed a voluntary petition under the provisions of 11 U.S.C. Chapter 13.
2. The bankruptcy court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 1334 and 11 U.S.C. Section 362(a) and 28 U.S.C. Section 157.
3. At the time of the initiation of these proceedings, the debtors are the owners of a parcel of real estate located in Honolulu, as described in the attached Mortgage also known as:
85-175 Farrington Highway Ste# 429 Waianae, HI 96792
a/k/a 85 175 Farrington Highway, Unit A429, Waianae HI 96792
4. The debtors are justly indebted to Navy Federal Credit Union pursuant to a Mortgage recorded among the Land Records of Honolulu in Liber 3216 Page 281. A copy of this Mortgage and Home Equity Line Truth in Lending and Agreement is attached hereto as movant's exhibit "A".
5. The debtors are now in default on the payment of installments due under the Mortgage to the secured creditor.
6. The principal balance due and owing your Movant pursuant to the Mortgage is approximately Forty Three Thousand Seven Hundred Fifty and 87/100 dollars (\$43,750.87)

through February, 2011.

7. The debtors are presently delinquent in excess of Five Thousand Eight Hundred Eighty Two and 36/100 dollars (\$5,882.36) through February, 2011. This sum included post petition arrears through February, 2011 of approximately Five Thousand Eight Hundred Eighty Two and 36/100 dollars (\$5,882.36).

8. The amount necessary to pay the total debt through February, 2011 is approximately Forty Nine Thousand Six Hundred Thirty Three and 23/100 dollars (\$49,633.23).

9. The debtors are not made six (6) post-petition monthly mortgage payments due and owing your Movant through February, 2011.

10. The Movant believes and avers that there will be no equity in said property if the total liens of foreclosure, including interest, costs and attorneys fees exceed the value of the property.

11. The interest of the Movant in the said property is not adequately protected. The property is not necessary for an effective reorganization.

12. Further, the Movant avers that it has been and continue to be irreparably injured by the automatic stay afforded pursuant to 362(a) of the Bankruptcy Code, which prevents the exercise of rights under the parties Mortgage.

13. Cause exists for lifting the automatic stay of 362(a) of the Bankruptcy Code to permit the Movant to enforce its rights under the Mortgage.

WHEREFORE, your Movant request:


A. That this court enter an Order lifting the automatic stay afforded the debtors by 11 U.S.C. Section 362(a) to enable the Movant to proceed with the foreclosure sale of the said real property.

B. That this court waive the stay referenced in Federal Rule of Bankruptcy Procedure 4001(a) (3).

C. That this court grant such other and further relief as it deems necessary.

Friedman & MacFadyen, P.A.

/s/ Michael T. Cantrell
Michael T. Cantrell, Esquire
210 E. Redwood Street
Baltimore, Maryland 21202-3399
Attorney for the Movant
Bar No.: 08793

/s/ Diana C. Theologou 
Diana C. Theologou, Esquire
210 E. Redwood Street
Baltimore, Maryland 21202-3399
Attorney for the Movant
Bar No.: 14284

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CERTIFICATE OF SERVICE

I hereby certify and affirm under the penalties of perjury that I served copies of the foregoing Motion to Modify Stay to Permit Foreclosure of the Deed of Trust and Notice of Motion for Relief from Stay and Hearing Thereon via the ECF system and/or first class mail, postage prepaid to: Charles L. Wardell, Esquire, 1425 K Street, NW, Suite# 350, Washington DC 20005; Timothy P. Branigan, Trustee, P.O. Box 1902, Laurel MD 20725-1902; Arlene P. Balunsat 85-175 Farrington Highway, Ste# 429, Waianae HI 96792; Arlene P. Balunsat 85 175 Farrington Highway, Unit A429, Waianae HI 96792; Arlene P. Balunsat 8711 Colonel Seward Drive, Fort Washington MD 20744 Benjamin P. Balunsat 85-175 Farrington Highway, Ste# 429, Waianae HI 96792; Benjamin P. Balunsat 85 175 Farrington Highway, Unit A429, Waianae HI 96792; Benjamin P. Balunsat 8711 Colonel Seward Drive, Fort Washington MD 20744 on February 16, 2011.

Friedman & MacFadyen, P.A.

/s/ Michael T. Cantrell
Michael T. Cantrell, Esquire

/s/ Diana C. Theologou 
Diana C. Theologou, Esquire